THE HON'BLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.12879 OF 2007

(DATED : 02.07.2007)

Between:

Madeti Suvarna Lalitha Kumari

…Petitioner

A n d

Government of A.P. rep. by Principal Secretary,
(Housing and Municipal Administration),
Secretariat, Hyderabad and others.

…
Respondents

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ORDER:

By the proceedings dated 06-06-2007, impugned herein, the petitioner is informed that the Municipal Council has decided and proposed to construct a new office building for the council out of the funds released by the Government, in lieu of the existing Municipal Office building ; that Municipal Shop No.4 is an obstruction for the execution of the new building; therefore, the shop needs to be demolished; that the Municipal Council has passed a resolution dated 06-06-2006 cancelling the lease of the petitioner's shop with effect from 06-06-2007 and therefore, the petitioner should vacate and hand over vacant possession of the shop on or before 30-06-2007.

The petitioner is running a Bangles and Fancy Goods shop in the Municipal Shop No.4. This is on the basis of a lease of the premises granted by the Municipality. By a letter dated 16-10-2006, the petitioner was intimated by the second respondent that the lease of the premises expires by 30-06-2006 and that should she desire to continuance of the lease she should submit an application for extension for a further period of three years on enhancement of the rent @ 33 1/3% of the existing rent. The petitioner was also informed that if she fails to submit application within the stipulated period, it would be presumed that she does not require extension of the lease and further action would be taken accordingly.

On 01-11-2006 the petitioner conveyed her acceptance for extension of lease for a period of three years at the enhanced rent.

Thereafter, the impugned order is issued.

On instructions, Sri Nageshwar Reddy, the learned standing counsel appearing for the respondent-municipality states that as per the second proviso to Rule 12 of the A.P. Municipalities (Regulations of Receipts and Expenditure) Rules 1968, the Municipal Council is the competent authority to grant renewal of lease for a period three years at a time on an enhanced rent of 33 1/3% over the existing rent. A general circular was issued by the second respondent to all the existing lessees inviting expression of interest for extension of leases. On receipt of applications, the same were considered by the Municipal Council. By a resolution dated 23-12-2006, the Municipal Council, insofar as Municipal Shop No.4 is concerned, resolved to extend the lease for a period of six months only from 01-01-2007 to 30-06-2007. This was so since Shop No.4 was required to be demolished to facilitate reconstruction of the municipal building.

According to the petitioner no such resolution was communicated to her, and according to the respondent-municipality it was communicated to the petitioner's husband who endorsed thereon. The learned standing counsel for the municipality does not explain the rationality of the procedure of communicating to the husband of the petitioner/ lessees and whether the husband was competent to have received such notices after signing in token of having accepted the notice.

Be that as it may. Since indisputably it is the municipal council which is the authority competent to grant extension of lease and since the offer by the first respondent contained in the letter dated 16-10-2006 is not a formal or competent offer of the Municipal Council *per se* and since the municipal council as on 23-12-2006 resolved to extend the lease of the petitioner only up to 30-06-2007, in law, there is no subsisting lease in favour of the petitioner beyond 30-06-2007. The petitioner has therefore, no alternative but to vacate the premises.

Faced with the above legal consequence, the learned counsel for the petitioner would suggest that this court grant some time for the

petitioner to vacate the premises. Responding to this suggestion the learned standing counsel for the Municipality states that the respondent municipality would certainly grant a minimum reasonable time to the petitioner to vacate the premises.

Recording the submission and permitting the petitioner to submit a representation to the respondent for grant of a suitable time, the writ petition is disposed of. It is made clear that the relief in specie as sought by the petitioner cannot be granted. No order as to costs.

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GODA RAGHURAM,J

02-07-2007
STP/Tsnr

THE HON'BLE SRI JUSTICE GODA RAGHURAM

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